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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,924	08/22/2001	Brian R. Beams	05222.00184	9686
29638 7590 04/03/2008 BANNER & WITCOFF, LTD. ATTORNEYS FOR CLIENT NO. 005222 10 S. WACKER DRIVE, 30TH FLOOR CHICAGO, IL 60606			EXAMINER SALAD, ABDULLAHI ELMI	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 04/03/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/934,924

Applicant(s)

BEAMS ET AL.

Examiner

Salad Abdullahi

Art Unit

2157

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-57 is/are pending in the application.
- 4a) Of the above claim(s) 39-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response

1. The amendment filed on 12/5/2006 has been received and made of record.
2. The applicant's arguments filed on 12/5/2006 with respect to claims 20-38 have been considered but are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, 29 is directed to apparatus comprising logic units or software modules which are a program per se.
4. Claims 30-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claims 30-38 are directed to computer program not embodied in computer readable physical medium.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Herz U.S. Patent No. 6,029,195[hereinafter Herz].

As per claim 20, Daniels disclose a method for providing one or more virtual instructors (virtual teacher), comprising the steps:

connecting a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);

selecting a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);

coupling the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

establishing interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

In considering claim 21, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 22, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 23, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 24, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instructor the one or more users (see col. 6, lines 36-63).

In considering claim 25, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 26, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 27, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 28, Daniels disclose the method for providing one or more virtual instructors as recited in claim 20, the second virtual instructor the interaction parameters include support of for electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

As per claim 29, Daniels disclose an apparatus for providing one or more virtual instructors (virtual teacher), comprising the steps:
logic that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 4, lines 19-50 and col. 6, lines 37-64);
logic that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50);
logic that couples the one or more users through the server based on the selected destination see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

logic that establishes interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

As per claim 30, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors comprising the steps: a code that connects a server and one or more users and first virtual instructor (first teacher) (see col. 3, lines 15-40 and col. 6, lines 37-64);

a code that selects a destination (location, class room) within the server to interact with one or more users (see fig. 4, and col. 3, lines 15-40);

a code that couples the one or more users through the server based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50); and

a code that establishes interaction parameters (providing support functions) for the one or users based on the selected destination (see fig. 4, and col. 3, lines 15-40 and col. 4, lines 19-50).

Daniels is silent regarding: dynamically adding second virtual instructor with the first virtual instructor and the one or more users.

Herz discloses teacher load balancing system including dynamically adding second virtual instructor (second teacher) (see col. 94, lines 47-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate the teaching of Herz into the system of Daniels such that more proficient teachers in math or reading can be assigned to teach less proficient students based needs of the students.

In considering claim 31, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor monitors progress and provides feedback (see col. 3, lines 29-31 and col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 32 Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor (second teacher) is selected by one more users (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 33, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor becomes the principal (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 34, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor works with the first instructor to instructor the one or more users (see col. 6, lines 36-63).

In considering claim 35, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor collaborates privately with the first instructor (see col. 6, lines 36-63).

In considering claim 36, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor leads a breakout session with one or more users (see col. 13, lines 8-13).

In considering claim 37, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20,

wherein the second virtual instructor is selected by the first virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

In considering claim 38, Daniels disclose a computer program embodied on a computer-readable medium that provides one or more virtual instructors as recited in claim 20, wherein the second virtual instructor the interaction parameters include support of for electronic distribution of materials from the second virtual instructor (see col. 6, lines 36-63 and col. 14, lines 37-64).

CONCLUSION

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salad E Abdullahi whose telephone number is 571-272-4009. The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Salad Abdullahi/
Primary Examiner, Art Unit 2157

